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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,020	01/08/2001	Robert Kendall	QUI-001	7098
36822	7590	09/20/2004	EXAMINER	
GORDON & JACOBSON, P.C. 65 WOODS END ROAD STAMFORD, CT 06905			MOONEYHAM, JANICE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/757,020	KENDALL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jan Mooneyham	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 June 2004.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2 and 4-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2 and 4-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This is in response to the applicant's communication filed on June 10, 2004, wherein:

Claims 1-2, 4-20 are currently pending in this application;

Claims 1, 11, 15, and 17 have been amended;

Claim 3 has been canceled;

No claims have been added.

### ***Response to Amendment***

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-2, 4-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

What does the applicant mean by vacation criteria and attributes? How are the attributes assigned to the criteria? The applicant has directed the Examiner to sections of the specification. However, it is still unclear what would be considered a criteria and what would be considered an attribute.

How does the system provide a recommendation of a vacation destination based on a selection via the user input device. Once again the applicant points the Examiner to pages in the specification. However, it is still unclear how the matching is performed.

What does the applicant mean when the applicant states that the criteria is changeable dependent upon the selection of another of said criteria?

What is applicant trying to claim in the wording “computer prepares a file collecting selected displayed vacation criteria and image files”?

What does the applicant mean by the selecting including selecting a general type of vacation?

What does the applicant mean by an associated image file?

How is the ranking performed?

***Claim Rejections - 35 USC § 101***

3. The applicant has amended Claims 11 and 15. Therefore, the refusal under 35 USC Section 101 as to Claims 11-20 has been withdrawn.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2 and 4-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delgado et al (US 2002/0052873) (hereinafter referred to as Delgado) in view of [www.thefirstresort.com](http://www.thefirstresort.com) retrieved from the Internet Archive Wayback Machine of date May 10, 2000 (hereinafter referred to as First Resort)..

Referring to Claim 1:

Delgado discloses an interactive vacation destination selection system, comprising:

a) a computer including data files and user interface files (Figs. 3-4, the data files including vacation criteria and attributes from a plurality of vacation destinations ((Fig. 5,

6, page 4 [0038], none of said vacation criteria and attributes including identifiers of a specific geographic destination (Figs. 5-6), said attributes being assigned to one or more of said vacation criteria (Figs. 5-6),

b) a terminal in communication with said computer (Figs. 3-4);

c) a display (Figs. 3-4); and

d) a user input device (Figs. 3-4, page 5 [0047]),

said terminal adapted to receive said user interface files, and said vacation criteria and associated image files from said computer and to display said user interface files, and said vacation criteria and associated image files on said display,

wherein upon selection via the user input device of a plurality of said displayed vacation criteria and associated image files, said computer provides a recommendation of at least one vacation destination which is displayed on said display of said terminal (Figs.

3-9 and page 2 [0009], page 4 [0038-0041]).

Delgado does not disclose at least a plurality of said vacation criteria each having respective associated representative image files, said image files not associated with particular vacation destinations but rather representing idealized depictions corresponding to the associated criteria.

However, First Resort discloses at least a plurality of said vacation criteria each having respective associated representative image files (pages 1-9).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate into the disclosure of Delgado the teachings of First Resort

since the image files allow the user to view the environment or activity or resort and to minimize having to write a description but rather allow the user to have a visual description.

First Resort does not disclose said image files not associated with particular vacation destinations but rather representing idealized depictions corresponding to the associated criteria. However, the data in the image files is nonfunctional descriptive data. This language adds little, if anything, to the claimed structure and is not functionally involved in the steps recited. The selection of a vacation destination would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F. 2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have idealized depictions corresponding to the criteria in the image files since any type of data having any type of content can be added to the image files and such data does not functionally relate to the structure of the system claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Referring to Claim 2:

Delgado discloses an interactive vacation destination selection system, wherein said user interface files are HTML files (page 4 [0040]).

Referring to Claim 4:

First Resort discloses an interactive vacation destination selection system, wherein said image file associated with one of said criteria is changeable dependent upon

the selection of another of said criteria (see page 2, where if the criteria were for a colder climate, the recommendation would not be for a sunny resort as shown on page 9).

Referring to Claim 5:

Delgado discloses an interactive vacation destination selection system, wherein said criteria are organized into categories, said categories including at least two from the group: destination, local area, accommodation, activities, suitability for children, and individual needs (Figs. 5-6, page 4 [0038-0041]).

Referring to Claim 6:

Both Delgado and First Resort discloses an interactive vacation destination selection system, wherein said user interface files include requests for input with respect to at least six of the following inquiries: the age ranges of travelers, when the user wants to travel, for how long the user wants to travel, how far away the user wants to travel, a budget range for the vacation, and a general type of vacation sought (See Delgado Figs. 5-6 and page 4 [0038-0041, pages 6-7 [0057-0058], see First Resort, pages 2 and 7).

Referring to Claim 7:

Both Delgado and First Resort disclose an interactive vacation destination selection system, wherein said user interface files include focus inquiries to focus a user on what the user wants to experience on a vacation (Delgado – Figs. 5-6, page 4 [0038-0041], First Resort, pages 2, 3 (free text search) and page 7).

Referring to Claim 8:

Both Delgado and First Resort discloses an interactive vacation destination selection system, wherein said computer prepares a file collecting selected displayed vacation criteria and

image files (Delgado – Figs. 1-6, Last Resort, pages 1-9).

Referring to Claims 9:

Delgado discloses an interactive vacation destination selection system, wherein said recommendation of at least one vacation destination includes for each vacation destination at least four of: a photograph, a map, information about the destination, the weather of the destination, a hyperlink to additional information about the destination, recommended accommodations, prices, access, and availability (page 4 [0041], pages 6-7 [0057-0058]).

Referring to Claim 10:

Delgado discloses an interactive vacation destination selection system wherein said user interface files includes means for editing selected criteria such that the computer presents modified recommendations (page 4 [0038], page 4 thru 5 [0042]).

Referring to Claim 11:

Delgado discloses a method for selecting a vacation destination, comprising:

- a) presenting to a user via a display which is coupled to a computer inquiries with respect to criteria for a vacation destination, none of said inquiries requesting the user to indicate where the user wants to vacation (Figs. 5 and 6);
- b) selecting a plurality of said criteria by the user (Figs. 5 and 6, page 4 [0038-0041]);
- c) determining by the computer from said selected plurality of criteria at least one recommended vacation destination for the user (page 4 [0038-0041]); and
- d) outputting to said user said at least one recommended vacation destination (page 4 [0038-0041]) (Figs. 7-9).

Referring to Claim 12:

Delgado discloses a method wherein said selecting includes selecting a general type of vacation (page 4 [0038-0041] – vacations that involve sports activities generally, or even specific activities such as, for example, water polo).

Referring to Claim 13:

First Resort discloses a method wherein said criteria each have an associated image file (pages 5-7).

Referring to Claim 14:

First Resort discloses a method wherein each said associated image file is a photographic image (pages 5-8).

Referring to Claim 15:

First Resort discloses a method wherein said presenting includes arranging on said display said criteria and said associated image files in a two-dimensional array (pages 5-8).

Referring to Claim 16:

Delgado discloses a method further comprising after selecting, ranking a subset of said plurality of selected criteria (Figs. 1, 2, Fig. 7, pages 3-4 [0035], pages 5-6 [0048-0051]).

Referring to Claim 17:

Delgado discloses a method further comprising after selecting and prior to determining, providing by the computer to the user a display of said selected criteria and requesting the user to remove at least one of said criteria (pages 4-5 [0042], pages 6 and 7 [0057-0058], Fig. 5 – Planning a Vacation, Fig. 9).

Referring to Claim 18:

Delgado discloses a method further comprising after outputting, editing said selected criteria by the user (page 4 [0038] – further define criteria.

Referring to Claim 19:

Delgado discloses a method wherein:

said editing includes removing at least one of said selected criteria (page 4 [0043-0044], [0047]).

Referring to Claim 20:

Delgado discloses a method wherein said output of said recommendation includes for each vacation destination at least four of: a photograph, a map, information about the destination, the weather of the destination, a hyperlink to additional information about the destination, recommended accommodations, prices, access, and availability (page 4 [0038-0041]).

***Response to Arguments***

Applicant's arguments with respect to claim1-2 and 4-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

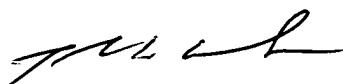
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

  
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